IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

O R D E R

Mukhia Vallabhdas Vs. State of Rajasthan & Ors.
(D.B.CIVIL WRIT PETITION NO.1467/2006)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

Date of Judgment: May 24,2006

P R E S E N T

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.Salil Trivedi, for the petitioner
Mr.V.R.Mehta, Government Advocate
Mr.M.S.Singhvi, for the respondents

BY THE COURT: **(PER HON'BLE MR.MATHUR J.)**

By way of instant petition under Article 226 of the Constitution of India, the petitioner has challenged the Notification under Section 4 of the Land Acquisition Act, 1894 published in the Udaipur Edition of the Rajasthan Patrika dated 25th October, 2005, whereby among others the house of the petitioner situated in Pritam Pol

located inside the temple premises comprising of 896 Sq.Ft., is sought to be acquired in public interest in compliance of the interim order passed in D.B.Civil Writ Petition No.2858/2004.

Mr.Salil Trivedi learned counsel for the petitioner has raised two contentions before us. Firstly, it is contended that the family of the petitioner is entrusted with the right of Seva-Pooja of Shrinathji and Navneet Priyaji. His family resides under the shadow of Flag(Dhwaja) of Thakur Ji and this tradition is continuing for last about 500 years. Thus, if the petitioner's house is acquired, he will be required to shift to other place, which will affect his right of Seva-Pooja. It is further submitted that the petitioner is performing the duty of Seva-Pooja, which is a public cause. The another contention raised is that the impugned notification is vitiated for the reason that the State Government has simply issued the same in compliance of the interim order of the High Court and has not applied its mind independently.

A reply to the writ petition has been filed on behalf of respondents No.1 to 4 supported by the affidavit of

Shri B.D.Kumawat, Land Acquisition Officer Cum Sub Divisional Officer, Nathdwara. A separate reply has also been filed on behalf of Nathdwara Temple Board, Nathdwara supported by the affidavit of Shri R.C.Gupta its Chief Executive Officer.

As far as the first contention is concerned, it is submitted by Mr.M.S.Singhvi learned counsel appearing for the Temple Board that the petitioner is guilty of concealing material fact to the effect that there are more than one Mukhiyas for undertaking Seva-Pooja of Lord Shrinathji and Lord Navneet Priyaji. The petitioner ceased to be Mukhiya since 1995. Further Mukhiyas are designated as Mukhya-I, Mukhiya-II and Mukhiya-III. So far as the petitioner is concerned, he has never been Mukhiya-I. He was Mukhiya-II. The turn of Mukhiya-II to undertake Seva-Pooja comes only when the Mukhiya-I is either not available or is unable to perform Seva-Pooja. It is also submitted that for Mukhiyas, it is not necessary to reside in the temple premises. The present Mukhiya-I and Mukhiya-II of Lord Shrinathji are residing outside the temple premises.

Having considered the rival contentions, we are of

the view that there is no substance in the first contention raised by Mr.Trivedi learned counsel. The petitioner has no vested right of Seva-Pooja. The house is required to be acquired in public interest. In the first instance, he is neither Mukhiya-I nor Mukhiya-II as stated by the respondent Temple Board. Even if he is required to perform Seva-Pooja, he can do so even without residing in the temple premises. Thus, the first contention is rejected being devoid of merit.

As far as second contention is concerned, a Division Bench of this Court by order dated 22.11.2004 taking into consideration that the temple of Shrinathji at Nathdwara holds high place amongst the Hindu temples and thousands of devotees visit the temple every day from various parts of the country have been facing certain difficulties, directed as follows:-

> "(a) Nathdwara Temple Board is directed to prepare a detail plan of Temple and Town development and also the time bound action plan within a period of three months from the date of order and submit the same to this Court for perusal.
>
> (b) The second respondent will convene atleast one meeting of the Board within a period of three months at Nathdwara itself. The meeting at Nathdwara will be positively attended by the second respondent."

In pursuance of the order of this Court the Trust meeting was convened at Nathdwara. The temple Board prepared a development plan as per the directions of this Court. The objections were invited. The Board is also hearing all the parties concerned. The State Government after independently applying its mind has issued the notification under challenge. It is not in dispute that after consideration of all the objections, further proceedings have been undertaken and notification under Section 6 has been issued. Mr.M.S.Singhvi learned counsel has referred to a decision of this Court in Rajmal and etc. etc. vs. State of Rajasthan & Ors. reported in AIR 1997 Rajasthan 68, wherein in identical circumstances a land was sought to be acquired for the development of Sanwaliyaji's Temple. The Court held that it was in the public interest. The learned counsel has also cited another decision of the Apex Court in Raja Anand Brahma Shah vs. The State of Uttar Pradesh & Ors. reported in AIR 1967 SC 1081, wherein it is held that after the notification under Section 6 is published the declaration of the government as to its public purpose becomes final.

Having given thoughtful consideration to the second contention, we are of the view that there is no substance therein. The Division Bench of this Court after thoroughly examining the entire issue in depth and detail has given the directions in the public interest. The Government after considering the entire material has issued the notification in the public interest.

Though various contentions have been raised in the writ petition, which have been answered by the State as well as the Temple Board in their respective replies, since those contentions have not been raised by the learned counsel, it is not necessary to deal with them. No other point has been raised. The petition stands dismissed.

(MANAK MOHTA), J. **(N.N.MATHUR), J.**

BKS/-